

REMARKS

Claims 1-33 are pending. Claims 1-4, 11-15, 18, 19, 21, 27, 29, and 30 have been amended. Claims 34 and 35 are withdrawn. New claims 36 and 37 are presented. Applicants reserve the right to pursue any of the previously pending subject matter in this or a continuing application.

Claims 18 and 27 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

All claims, as presented and amended herein, are believed to be in proper form.

Claims 1-13, 16, 18-30, 32, and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,635,358 to Wilding et al. ("Wilding") in view of U.S. Patent No. 5,726,404 to Brody ("Brody").

Claim 1 recites a microfluidic device for processing a particle-containing liquid, comprising:

- an enrichment zone to prepare an enriched particle sample from the particle-containing liquid, the enrichment zone comprising a flow-through member configured to allow liquid of the particle-containing liquid to pass along a first pathway through the flow-through member while retaining particles of the particle-containing liquid in the enrichment zone;

- a channel extending downstream from the enrichment zone along a second, different pathway; and

- a gas actuator to provide a gas pressure sufficient to move the enriched particle sample along the second pathway of the channel downstream from the enrichment zone, the enriched particle sample comprising at least some of the retained particles.

The Office Action states that Wilding teaches a device "comprising an enrichment zone (e.g., sections 22C & 22D)." Office Action, pg. 3. Applicants do not understand these sections or any other aspect of the Wilding device to disclose or suggest a device comprising an enrichment zone, a flow-through member, a channel, and a gas actuator as recited in claim 1. For example, Wilding discloses a device having a filter 28. Wilding, Figs. 1 and 7. Wilding does not disclose or suggest moving an enriched particle downstream of the filter 28 as recited in claim 1, nor does the device seem capable of doing so. Brody merely discloses a liquid microswitch and does not provide the enrichment or other disclosure missing from Wilding.

Claim 19 recites a microfluidic device for processing a particle containing liquid. The

device comprises an enrichment zone configured to substantially separate an enriched particle sample from the particle-containing liquid and an actuator to remove the enriched particle sample from the enrichment zone with essentially no dilution of the enriched particle sample.

No combination of Wilding and Brody is understood to disclose removing an enriched particle sample from an enrichment zone with essentially no dilution, as recited in claim 19.

In view of the foregoing, claims 1 and 19, as presented herein, and claims dependent therefrom are understood to be patentable over the combination of Wilding and Brody.

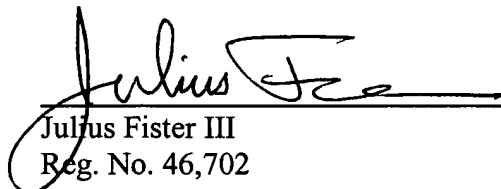
Claims 14, 15, 17, and 31, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilding, Brody, and U.S. Patent No. 6,534,295 to Tai et al. ("Tai").

As discussed above, no combination of Wilding and Brody discloses or suggests the inventions of claims 1 and 19. Tai merely discloses a cell lysis device and does not provide any of the disclosure missing from Wilding and Brody. Accordingly, no combination of the cited references discloses the inventions of claims 1 and 19, let alone dependent claims 14, 15, 17, and 31.

Enclosed is an \$88.00 check for excess claim fees and a \$55.00 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: October 18, 2004


Julius Fister III
Reg. No. 46,702

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906